



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,774	02/25/2002	Gregory P. Fitzpatrick	BOC9-2001-0002 (238)	4419

40987 7590 02/21/2007
AKERMAN SENTERFITT
P. O. BOX 3188
WEST PALM BEACH, FL 33402-3188

EXAMINER

BRINEY III, WALTER F

ART UNIT	PAPER NUMBER
----------	--------------

2615

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/082,774	Applicant(s) FITZPATRICK ET AL.	
	Examiner Walter F. Briney III	Art Unit 2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06 November 2006 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 5-12 and 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neal et al. (US Patent 6,263,064) in view of Fitzpatrick et al. (US Patent 5,436,963).

Applicant's instant amendment to the claims succeeded in indicating that "reception state data" is transmitted to a "sending party via the communication channel," and that the "reception state data" is presented in a form compatible with a device of the sending party." However, it is not clear whether the reception state data presented to the sending party includes the "time at which the receiving party prefers to receive delivery of a message associated with a communication channel through which the

Art Unit: 2615

receiving party prefers to receive delivery of a message.” Essentially, the applicant narrowed the manner in which information is presented to a sending party, but broadened the type of information presented to the sending party.

Claim 1 is limited to “a method of message delivery.” O’Neal discloses a centralized communication control center for visually and audibly updating communication options, which correspond to “reception states,” associated with communication services of a unified messaging system and methods therefor. See Abstract. Several of those options are illustrated in figure 3 and described starting in column 11, line 51. Figure 6 depicts the method employed for updating each option. In particular, a subscriber modifies each option in step 612 and subsequently saves the option choices in step 614, which corresponds to “registering a plurality of reception states established by a receiving party.” All the options provide “conditions for establishing communication links with receiving party addresses.” In particular, each reception state 304, 308, 312, 316, 319, 321 includes a plurality of conditions, such as on, off, forwarding lists 306, routing lists 310, transfer lists 314, paging options and message urgency 318. Each option and its conditions “are associated with the nature of the message.” Specifically, if the message is a telephone message, processing occurs in accordance with step 510, but if the message is a fax, processing occurs in accordance with step 514. See Figure 5 and column 15, lines 14-63. Further, at least the paging option 321 enables callers to be prompted with the option of sending a page, i.e. “establishing communications links with receiving party addresses, wherein at least one of said reception states uses a communication channel different from a

Art Unit: 2615

communication channel associated with a first initiated communications link between a sending party and the receiving party.” See column 13, line 61, through column 14, line 17. The message alert option 316 allows messages to be forwarded to alternate communication channels as well, such as e-mail. See column 13, lines 18-39. What O’Neal fails to express is whether each condition comprises a “time at which the receiving party prefers to receive delivery of a message associated with a communication channel through which the receiving party prefers to receive delivery of a message.” This limitation will be shown to be obvious in view of the teachings of O’Neal and Fitzpatrick below following discussion of the remaining method steps.

In operation, the system of O’Neal “identifies a receiving party address from the first initiated communication link” in accordance with steps 502 and 504 of figure 5. See column 15, lines 14-36. The system then “determines reception state data specified by said plurality of reception states according to said receiving party address” in accordance with step 506. See column 15, lines 31-44. The system then “presents said reception state data to the sending party” in accordance with steps 506-516. For example, when paging is enabled, a user will be given instructions for sending a page. See column 13, line 61, through page 14, line 10. These instructions must be presented “in a form compatible with a device of the sending party making the first initiated communications link.” Also see column 12, lines 23-29.

Returning to the limitation “wherein each specified condition comprises time at which the receiving party prefers to receive delivery of a message associated with a communication channel through which the receiving party prefers to receive delivery of

Art Unit: 2615

a message," it is noted that O'Neal requires a user to log in to the unified messaging system web site in step 602 of figure 6 every time the user wishes to modify a communication option in step 612. This requirement is recognized as problematic in column 1, lines 29-39, of Fitzpatrick. In solution, Fitzpatrick provides an electronic calendar to enable automatic routing of incoming calls. See column 1, lines 40-60. Figures 2a and 2b of Fitzpatrick illustrate a method of routing an incoming call: a caller is presented with calendar information from a calendar database in steps 210-290, a number associated with the callee's calendar schedule is retrieved for connection in steps 300-410 and a connection is established in steps 420-450.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify O'Neal's unified messaging system with the teachings of Fitzpatrick, which enable one to program a calendar with connection options for the purpose of eliminating the constant reprogramming required of O'Neal's system. For example, O'Neal's system provides follow me service with a primary and secondary list that can be selectively placed into operation through subscriber reprogramming. See column 12, lines 50-57. Fitzpatrick's teachings enable a calendar to automatically switch between these follow me lists so subscriber reprogramming is obviated.

Claim 11 is directed towards a machine-readable storage with a program that executes essentially the same method as claim 1, as covered by O'Neal in view of Fitzpatrick. The system disclosed by O'Neal is computerized. See figure 2 and column 7, line 12, through column 9, line 67. Therefore, O'Neal in view of Fitzpatrick makes obvious all limitations of the claim.

Art Unit: 2615

Claims 2, 5-12 and 15-20 depend variously on claims 1 and 11, as covered by O'Neal in view of Fitzpatrick, and are rejected for the same reasons. The further limitations presented in each of these claims are rejected for the same reasons presented in the Non-Final Rejection filed 05 April 2006, and incorporated herein by reference.

2. **Claims 3, 4, 13 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neal in view of Fitzpatrick and further in view of Adams et al. (US patent 6,631,186).

Claims 3, 4, 13 and 14 depend variously on claims 1 and 11, as covered by O'Neal in view of Fitzpatrick, and are rejected for the same reasons. The further limitations presented in each of these claims are rejected for the same reasons presented in the Non-Final Rejection filed 05 April 2006, and incorporated herein by reference.

Response to Arguments

Applicant's arguments filed 06 November 2006 have been fully considered but are moot in view of new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Walter F. Briney III whose telephone number is 571-272-7513. The examiner can normally be reached on M-F 8am - 4:30pm.

Art Unit: 2615

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



SINH TRAN
SUPERVISORY PATENT EXAMINER

wfb
2/14/07